

**REMARKS**

Claims 11-16, 21 and 22 remain in this application. Claim 11 has been amended while claims 1-10, 17-20 and 23 have been previously cancelled. No new subject matter is believed to have been added by this Amendment.

In Section No. 5 of the Office Action, the Examiner rejects claims 11, 13-16 and 22 under 35 U.S.C. §103(a) as being obvious from the teaching of United States Patent No. 3,801,421 to Allen, et al. (hereinafter the "Allen patent"), in view of the teaching of United States Patent No. 6,021,646 to Burley, et. al. (hereinafter the "Burley patent"). The Allen patent is directed to a resilient composite which is useful as a surface for athletic activities, wherein, as stated in column 7, lines 4-14, and as shown in Fig. 3, the resilient composite is a non-slipping surface which is covered with a seam-hiding coat 8 with a topcoat 9. The Examiner, as stated in Section No. 5 of the Office Action, agrees that the Allen patent does not teach or suggest applying depressions using an uneven pressure embossing step. However, the Examiner does indicate that the Burley patent teaches making flooring systems for sport facilities, and furthermore, that top surfaces may be provided with a textured finishing using a heated roller or textured wheel embossing means, without limitation on the regularity of textures formed.

Applicant respectfully disagrees with this rejection. The Burley patent teaches a floor system for a rink which includes a number of floor elements which are interlocked with adjacent floor elements to form a completed continuous upper planar surface, as stated in lines 4-7 of the Abstract. The floor elements are prefabricated and interlocked to build the floor system. This method of producing a covering is different from the method of the present invention, which produces a jointless and porous granular covering wherein, prior to the securing of the binder, the surface is compacted such that a smooth surface is provided. The Burley patent suggests applying to the extruded floor elements a heated roller or textured wheel having a mirror image of the desired texture, after the extrusion is cooled. The textured finish is a "matte" finish that gives a sandpaper or pebble effect and decreases friction between hockey pucks and the floor surface. The floor element is extruded and not compacted, and no smooth surfacing is provided.

The method disclosed in the Burley patent involves producing floor elements in a floor system and cannot be used for producing a jointless and porous granular covering in which rubber-elastic granules and a binder are mixed and applied to a base. A finish with a "sandpaper or pebbled effect" is not possible or useful for a porous granular covering made of rubber elastic granules. It should be noted that the Allen patent uses granules which typically have sizes such that these granules would all pass through a screen with  $\frac{1}{2}$ " or  $\frac{1}{4}$ " openings, as stated in column 5, lines 4-7 of the Allen patent. A surface made of particles with this size texture, as suggested by the Burley patent, is not possible. In order to provide a non-slipping surface, the Allen patent suggests covering the base with a topcoat containing polyvinyle chloride aggregate.

As a result, Applicant does not believe it is appropriate to combine these two references. There is neither a teaching nor a suggestion to combine the teaching of these two references and the mere existence of individual elements found in separate patents does not render a patent with a combination of these elements obvious. Absent such a suggestion to combine the references, Applicant does not believe it is appropriate to render the invention obvious by piecing together other references using the patented invention as a template. Even if these two references could be combined, the subject invention is still not taught.

For these reasons, Applicant believes that independent claim 11 is patentable over the prior art of record and by their dependence upon what is believed to be patentably distinct independent claim 11, dependent claims 13-16 and 22 are themselves believed to be patentably distinct over the prior art of record.

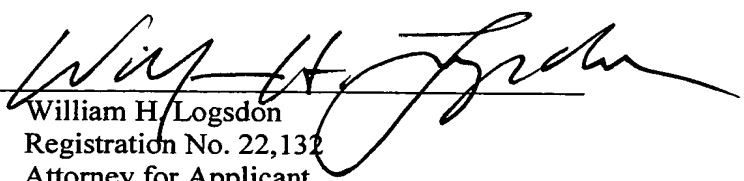
In Section No. 6 of the Office Action, the Examiner rejects claims 12 and 21 under 35 U.S. C. §103(a) as being obvious from the teaching of the Allen patent in view of the teaching of the Burley patent and further in view of the teaching of United States Patent No. 4,897,302 to Bull. By way of their dependence upon what is believed to be patentably distinct independent claim 11, dependent claims 12 and 21 are themselves believed to be patentably distinct over the prior art of record.

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Reconsideration and allowance of claims 11-16, 21 and 22 are respectfully requested.

Respectfully submitted,  
THE WEBB LAW FIRM

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